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REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON THE FIFTY-THIRD SESSION OF THE COMMISSION

Draft report of the Commission

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* Documents E/CN.4/1997/L.10 and addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Economic and Social Council, will be contained in documents E/CN.4/1997/L.11 and addenda.

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B. Decisions

1997/101. Organization of work

At its 2nd meeting, on 11 March 1997, the Commission on Human Rights decided, without a vote, to invite the following persons to participate in its meetings:

(a) In connection with item 3: Mr. P. Pinheiro, Special Rapporteur on the situation of human rights in Burundi;

(b) In connection with item 4: Mr. H. Halinen, Special Rapporteur on the Palestinian territories occupied by Israel;

(c) In connection with item 5: Ms. Fatma Zohra Ksentini, Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes;

(d) In connection with item 6: Mr. K. Drzewicki, Chairman-Rapporteur of the Intergovernmental Group of Experts on the Right to Development;

(e) In connection with item 7: Mr. E. Bernales Ballesteros, Special Rapporteur on the question of the use of mercenaries;

(f) In connection with item 8: Mr. L. Joinet, Chairman-Rapporteur of the Working Group on Arbitrary Detention;

(g) In connection with item 8: Mr. A. Hussein, Special Rapporteur on the right to freedom of opinion and expression;

(h) In connection with item 8: Mr. P. Cumaraswami, Special Rapporteur on the independence of judges and lawyers;

(i) In connection with item 8 (a): Mr. N. Rodley, Special Rapporteur on the question of torture;

(j) In connection with item 8 (c): Mr. I. Tosevski, Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances;

(k) In connection with item 8 (d): Mr. C. Vargas Pizarro, Chairman-Rapporteur of the working group on a draft optional protocol to the Convention against Torture;

(l) In connection with item 9 (a): Ms. R. Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences;

(m) In connection with item 9 (d): Mr. F.M. Deng, Representative of the Secretary-General on internally displaced persons;

(n) In connection with item 10: Mr. C.J. Groth, Special Rapporteur on the situation of human rights in Cuba;

(o) In connection with item 10: Mr. M. Copithorne, Special Representative of the Secretary-General on the situation of human rights in the Islamic Republic of Iran;

(p) In connection with item 10: Mr. R. Garretón, Special Rapporteur on the situation of human rights in Zaire;

(q) In connection with item 10: Mr. A. Artucio, Special Rapporteur on the situation of human rights in Equatorial Guinea;

(r) In connection with item 10: Mr. R. Lallah, Special Rapporteur on the situation of human rights in Myanmar;

(s) In connection with item 10: Mr. B.W. N'diaye, Special Rapporteur on extrajudicial, summary or arbitrary executions;

(t) In connection with item 10: Mr. Choong-Hyun Paik, Special Rapporteur on the situation of human rights in Afghanistan;

(u) In connection with item 10: Mr. M. van der Stoel, Special Rapporteur on the situation of human rights in Iraq;

(v) In connection with item 10: Mr. G. Bíro, Special Rapporteur on the situation of human rights in the Sudan;

(w) In connection with item 10: Ms. E. Rehn, Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia;

(x) In connection with item 10: Mr. R. Dégni-Seguí, Special Rapporteur on the situation of human rights in Rwanda;

(y) In connection with item 10: Mr. M. Novak, expert of the Working Group on Enforced or Involuntary Disappearances dealing with missing persons in the former Yugoslavia;

(z) In connection with item 10 (b): Mr. F. Yimer, Chairman of the Working Group on Communications of the Sub-Commission on Prevention of Discrimination and Protection of Minorities; representatives of States in respect of which situations were being considered under item 10 (b);

(aa) In connection with item 13: Mr. M. Glèlè-Ahanhanzo, Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance;

(bb) In connection with item 14: Mr. P. Alston, Chairman of the Committee on Economic, Social and Cultural Rights;

(cc) In connection with item 15: Ms. I. Corti, Chairperson of the seventh meeting of the persons chairing the human rights treaty bodies;

(dd) In connection with item 16: Mr. A. Eide, Chairman of the forty-eighth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

(ee) In connection with item 18: Mr. T. Hammarberg, Special Representative of the Secretary-General on Cambodia;

(ff) In connection with item 18: Mr. A. Dieng, Independent expert on the situation of human rights in Haiti;

(gg) In connection with item 18: Ms. M. Pinto, Independent expert on the situation of human rights in Guatemala;

(hh) In connection with item 18: Ms. M. Rishmawi, Independent expert on the situation of human rights in Somalia;

(ii) In connection with item 18: Ms. L. Takla, Chairperson of the Board of Trustees of the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights;

(jj) In connection with item 19: Mr. A. Amor, Special Rapporteur on the question of religious intolerance;

(kk) In connection with item 20: Mr. J. Helgesen, Chairman-Rapporteur of the Working Group on "human rights defenders";

(ll) In connection with item 21: Mr. N. Eliasson, Chairman-Rapporteur of the Working Group on a draft optional protocol on the involvement of children in armed conflicts;

(mm) In connection with item 21: Ms. G. Machel, Independent expert appointed by the Secretary-General on the impact of armed conflicts on children;

(nn) In connection with item 21 (b): Mrs. O. Calcetas-Santos, Special Rapporteur on the sale of children, child prostitution and child pornography;

(oo) In connection with item 21 (d): Mr. I. Mora, Chairman-Rapporteur of the Working Group on a draft optional protocol on the sale of children, child prostitution and pornography;

(pp) In connection with item 24: Mr. J. Urrutia, Chairman-Rapporteur of the working group on a draft declaration on indigenous rights.

[See chap. III.]

1997/102. Human rights and the environment

At its 36th meeting, on 16 April 1997, the Commission on Human Rights, taking note of the reports of the Secretary-General submitted in accordance

with its resolutions 1995/14 and 1996/13 on the question of human rights and the environment (E/CN.4/1996/23 and Add.1 and E/CN.4/1997/18), and bearing in mind the plans for General Assembly consideration of Agenda 21, decided to invite the Secretary-General to bring those reports and the Commission on Human Rights' own consideration of this question to the attention of the General Assembly at its special session on Agenda 21, the Commission on Sustainable Development, the United Nations Environment Programme, the United Nations Development Programme and other relevant international bodies and organizations, and to request the Secretary-General to prepare a consolidated report based on the deliberations of the General Assembly and of those international bodies and organizations for its consideration of the question of human rights and the environment at its fifty-fifth session.

[See chap. V.]

1997/103. Effects of structural adjustment policies on the full enjoyment of human rights

At its 36th meeting, on 3 April 1997, the Commission on Human Rights, taking note of the report of the open-ended working group on structural adjustment programmes and economic, social and cultural rights (E/CN.4/1997/20), decided, without a vote, to authorize the open-ended working group to meet for one week, at least four weeks before the fifty-fourth session of the Commission, with a mandate: (a) to gather and analyse information on the effects of structural adjustment programmes on economic, social and cultural rights and (b) to elaborate basic policy guidelines on structural adjustment programmes and economic, social and cultural rights which could serve as a basis for a continued dialogue between human rights bodies and the international financial institutions, and to report to the Commission at its fifty-fourth session.

In order that the working group might carry out its mandate, the Commission also decided:

(a) To request the Chairman of the Commission, in consultation with the regional groups, to appoint an independent expert, preferably an economist specialized in the area of structural adjustment programmes, to study the effects of structural adjustment policies on economic, social and cultural rights in cooperation with the Centre for Human Rights. The expert should

update previous work done on this subject within as well as outside the United Nations and submit a consolidated study, including a draft set of guidelines, to the Commission at its fifty-fourth session;

(b) To request the Secretary-General to circulate the study to Governments, United Nations bodies, in particular the regional commissions, the specialized agencies, intergovernmental organizations, non-governmental organizations, particularly those involved in development, and academic institutions and organizations representing disadvantaged and vulnerable groups, and to invite them to submit their comments thereon to the working group at its next session;

(c) To request the Secretary-General specially to invite and encourage non-governmental organizations involved in development and working in the field to participate actively in the sessions of the working group;

(d) To request the Secretary-General to provide all the necessary assistance and resources to enable the working group to complete its work and to provide the independent expert with all the necessary assistance and resources to carry out his/her mandate.

The Commission recommended the following draft decision to the Economic and Social Council for adoption:

"The Economic and Social Council, taking note of Commission on Human Rights decision 1997/... of ... 1997, endorses the Commission's decision to authorize the open-ended working group to meet for one week, at least four weeks before the fifty-fourth session of the Commission with a mandate: (a) to gather and analyse information on the effects of structural adjustment programmes on economic, social and cultural rights and (b) to elaborate basic policy guidelines on structural adjustment programmes and economic, social and cultural rights which could serve as a basis for a continued dialogue between human rights bodies and the international financial institutions, and to report to the Commission at its fifty-fourth session.

In order that the working group may carry out its mandate, the Council also decides:

(a) To request the Chairman of the Commission, in consultation with the regional groups, to appoint an independent expert, preferably an economist specialized in the area of structural adjustment programmes, to study the effects of structural adjustment policies on

economic, social and cultural rights in cooperation with the Centre for Human Rights. The expert should update previous work done on this subject within as well as outside the United Nations and submit a consolidated study, including a draft set of guidelines, to the Commission at its fifty-fourth session;

(b) To request the Secretary-General to circulate the study to Governments, United Nations bodies, in particular the regional commissions, the specialized agencies, intergovernmental organizations, non-governmental organizations, particularly those involved in development, and academic institutions and organizations representing disadvantaged and vulnerable groups, and to invite them to submit their comments thereon to the working group at its next session;

(c) To request the Secretary-General specially to invite and encourage non-governmental organizations involved in development and working in the field to participate actively in the sessions of the working group;

(d) To request the Secretary-General to provide all the necessary assistance and resources to enable the working group to complete its work and to provide the independent expert with all the necessary assistance and resources to carry out his/her mandate."

[See chap. V.]

1997/104. Status of the International Covenants on Human Rights

At its 36th meeting, on 3 April 1997, the Commission on Human Rights, reaffirming its resolution 1996/16, and taking note of the report on the Status of the International Covenants on Human Rights of the Secretary-General (E/CN.4/1997/72), without a vote:

(i) Decided to request an updated version of the report for consideration at its fifty-fourth session;

(ii) Decided to request the Secretary-General to transmit the text of the draft optional protocol to the International Covenant on Economic, Social and Cultural Rights, contained in document E/CN.4/1997/105, to Governments and intergovernmental and non-governmental organizations for their comments for submission to the Commission on Human Rights at its fifty-fourth session;

(iii) Decided to continue to consider at its fifty-fourth session the agenda item entitled "Status of the International Covenants on Human Rights".

[See chap. XIV.]

1997/105. Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

At its 37th meeting, on 3 April 1997, the Commission on Human Rights, reaffirming its resolution 1996/22 of 19 April 1996 and taking note of General Assembly resolution 51/87 of 12 December 1996:

(a) Welcomed the report of the Secretary-General on measures taken to implement resolution 1996/22 and on obstacles to its implementation (E/CN.4/1997/73), the note by the High Commissioner for Human Rights on the inventory of all international human rights standard-setting activities (E/CN.4/1997/75), the note by the Secretary-General transmitting the final report of the independent expert on enhancing the long-term effectiveness of the United Nations human rights treaty system (E/CN.4/1997/74), and the report of the seventh meeting of persons chairing human rights treaty bodies (A/51/482, annex);

(b) Invited the Secretary-General to solicit the views of United Nations bodies, Governments, specialized agencies, intergovernmental and non-governmental organizations and interested persons on the report of the independent expert and to submit a report thereon, including the Secretary-General's own views on the legal, administrative and other implications of the report's recommendations, to the Commission on Human Rights at its fifty-fourth session;

(c) Decided, without a vote, to consider at its fifty-fourth session all reports relevant to this subject, including those of the Secretary-General, the seventh and eighth meetings of persons chairing human rights treaty bodies and the independent expert, as well as the Secretary-General's detailed analytical study requested by the General Assembly in its resolution 51/87, if it was available;

(d) And to consider the question of the effective implementation of international instruments on human rights, including reporting obligations

under international instruments on human rights, at its fifty-fourth session under the agenda item entitled "Effective functioning of bodies established pursuant to the United Nations human rights instruments".

[See chap. XV.]

1997/106. Children and juveniles in detention

At its 56th meeting, on 11 April 1997, the Commission on Human Rights, reaffirming its resolution 1996/32 of 19 April 1996 entitled "Human rights in the administration of justice, in particular of children and juveniles in detention", welcomed the report of the Secretary-General (E/CN.4/1997/26), requested the Secretary-General to submit an updated report at its fifty-fourth session, and decided, without a vote, to resume, on a biennial basis, consideration of this question at its fifty-fourth session under the agenda item entitled "Question of the human rights of all persons subjected to any form of detention or imprisonment".

[See chap. VIII.]

1997/107. Human rights of persons with disabilities

At its 56th meeting, on 11 April 1997 the Commission on Human Rights, reaffirming its resolution 1996/27 of 19 April 1996 on the human rights of persons with disabilities, in particular the requests to the Secretary-General contained therein, noted the report of the Special Rapporteur on disability of the Commission for Social Development (A/52/56, annex) and decided, without a vote, to resume consideration of this question at its fifty-fourth session and to invite the Special Rapporteur on disability to be present on that occasion.

[See chap. XVI.]

1997/108. Traditional practices affecting the health of women and children

At its 56th meeting, on 11 April 1997, the Commission on Human Rights, taking note of resolution 1996/19 of 29 August 1996 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, endorsed the decision of the Sub-Commission to extend the mandate of the Special Rapporteur, Ms. Halima Embarek Warzazi, for a further two years in order to follow up and monitor developments in the elimination of traditional practices affecting the health of women and children through, in particular,

the implementation of the Plan of Action for the Elimination of Traditional Practices affecting the Health of Women and Children (E/CN.4/Sub.2/1994/10/Add.1 and Corr.1).

[See chap. XVI.]

1997/109. The right to a fair trial

At its 57th meeting, on 11 April 1997, the Commission on Human Rights, recalling its decision 1995/110 of 3 March 1995 and taking note of resolution 1996/29 of 29 August 1996 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, decided, without a vote, to endorse the requests by the Sub-Commission that Mr. Stanislav Chernichenko and Mr. David Weissbrodt compile and update the study on the right to a fair trial and a remedy initially prepared by Mr. Chernichenko and Mr. William Treat, and that the full study, entitled "The right to a fair trial: current recognition and measures necessary for its strengthening", be published in all the official languages of the United Nations, and recommended the following draft decision to the Economic and Social Council for adoption:

> "The Economic and Social Council, recalling its decision 1995/299 of 25 July 1995 and taking note of Commission on Human Rights decision 1997/... of .. April 1997, approves the request that the compiled and updated report on the right to a fair trial and a remedy be published as described in resolution 1996/29 of 29 August 1996 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and requests the Secretary-General to provide all assistance necessary for the compilation and publication of the updated study."

[See chap. ...]

1997/110. Question of human rights and states of emergency

At its 57th meeting, on 11 April 1997, the Commission on Human Rights, taking note of resolution 1996/30 of 29 August 1996 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, decided, without a vote, to request the Special Rapporteur on the question of human rights and states of emergency, Mr. Leandro Despouy, to submit in his tenth annual report an updated list of States which have proclaimed, extended or terminated a

state of emergency, together with final conclusions on the protection of human rights during states of emergency and specific recommendations as to how this question should be dealt with in the future.

[See chap. ...]

1997/111. United Nations Decade for Human Rights Education

At its 57th meeting, on 11 April 1997, the Commission on Human Rights, bearing in mind its resolution 1996/44 on the United Nations Decade for Human Rights Education and the need to allow time for the implementation of the resolution, decided, without a vote, to defer consideration of this question to its fifty-fourth session under the relevant agenda item.

[See chap. IX.]

1997/112. Protection of the heritage of indigenous people

At its 57th meeting, on 11 April 1997, the Commission on Human Rights, taking note of resolution 1996/37 of 29 August 1996 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and considering the recommendations contained in the supplementary report submitted by the Special Rapporteur, Ms. Erica-Irene Daes, on protection of the heritage of indigenous people (E/CN.4/Sub.2/1996/22), decided, without a vote, to recommend that Ms. Erica-Irene Daes be entrusted with a continuing mandate to exchange information with all parts of the United Nations system involved in activities concerned with the heritage of indigenous people, with the purpose of facilitating cooperation and coordination and of promoting the full participation of indigenous people in these efforts. The Commission also requested the Secretary-General to provide the Special Rapporteur of the Sub-Commission with all the assistance necessary to accomplish her work.

[See chap. XXIV.]

1997/113. Study on treaties, agreements and other constructive arrangements between States and indigenous populations

At its 58th meeting, on 13 April 1997, the Commission on Human Rights, taking note of decision 1996/118 of 29 August 1996 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, endorsed the decision of the Sub-Commission to request the Special Rapporteur of the Sub-Commission on the study on treaties, agreements and other constructive arrangements between States and indigenous populations, Mr. Miguel Alfonso

Martínez, to submit his final report in time for it to be considered by the Working Group on Indigenous Populations at its fifteenth session and by the Sub-Commission at its forty-ninth session. The Commission requested the Secretary-General to give the Special Rapporteur all the assistance necessary to enable him to conclude his study, in particular by providing for specialized research assistance and for special consultations with the Centre for Human Rights.

[See chap. XXIV.]

1997/114 Study on indigenous land rights

At its 58th meeting on 13 April 1997, the Commission on Human Rights, taking note of resolution 1996/38 of 29 August 1996 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, approved the appointment of Mrs. Erica-Irene Daes as Special Rapporteur to prepare, from within existing resources, a working paper on indigenous people and their relationship to land with a view to suggesting practical measures to address ongoing problems in this regard. The Commission requested the Special Rapporteur: (a) to submit a preliminary working paper to the Working Group on Indigenous Populations at its fifteenth session and to the Sub-Commission at its forty-ninth session; (b) to transmit the working paper to Governments and indigenous organizations for their views which the Special Rapporteur should take into account inter alia, in preparing her final working paper; (c) to submit her final working paper to the Working Group at its sixteenth session and to the Sub-Commission at its fiftieth session. The Commission requests the Secretary-General to provide the Special Rapporteur with the assistance necessary to enable her to complete her working paper, and recommends the following draft decision to the Economic and Social Council for adoption:

> "The Economic and Social Council, taking note of Commission on Human Rights decision 1997/... of ... April 1997, endorses the appointment of Ms. Erica-Irene Daes as Special Rapporteur to prepare a working paper on indigenous people and their relationship to land with a view to suggesting practical measures to address ongoing problems in this regard, and requests the Secretary-General to provide the Special Rapporteur with all the assistance necessary, from within existing resources, to enable her to complete her work."

[See Chap. XXIV.]

1997/115 Human rights and income distribution

At its 63rd meeting, on 15 April 1997, the Commission on Human Rights, taking note of resolution 1996/26 of 29 August 1996 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, decided, without a vote, to defer a decision on the Sub-Commission's request to the Economic and Social Council that the Secretary-General organize a seminar of experts to develop appropriate indicators, as provided for in the Programme of Action of the World Summit for Social Development (A/CONF.166/9, para. 36 (n)), and to monitor the implementation of the commitments made by Governments, as set out in paragraph 36 (a) to (m) of the Programme of Action, with a view to deciding whether the activity should be held under the Commission for Social Development or under the Commission on Human Rights.

[See Chap. V.]

1997/116. Deferral of consideration of draft resolutions L.86 and L.87, entitled "Rationalization of the work of the special procedures system" and "Review of the special procedures system", to the fifty-fourth session of the Commission on Human Rights

At its 64th meeting, on 15 April 1997, the Commission decided, without a vote, to defer consideration of the draft resolutions L.86 and L.87 entitled "Rationalization of the work of the special procedures system" and "Review of the special procedures system" to the fifty-fourth session of the Commission on Human Rights.

[See chap. ...]

1997/117. Conscientious objection to military service

At its 67th meeting, on 16 April 1997, the Commission on Human Rights, recalling its resolution 1995/83 of 8 March 1995, decided to defer consideration of the question of conscientious objection to military service to its fifty-fourth session.

[See chap. III.]

1997/118. Tolerance and pluralism as indivisible elements in the promotion and protection of human rights

At its 67th meeting, on 16 April 1997, the Commission on Human Rights, bearing in mind its resolution 1996/19, entitled "Tolerance and pluralism as indivisible elements in the promotion and protection of human rights", and the need to allow time for the implementation of the resolution, decided, without a vote, to defer consideration of this question to its fifty-fourth session under the relevant agenda item.

[See chap. III.]

1997/119. Organizatin of the work of the fifty-fourth session (additional meetings)

At its 67th meeting, on 16 April 1997, the Commission, taking into account its heavy schedule of work, as well as the need to give adequate consideration to all the items on the agenda, and recalling that in previous years the Economic and Social Council had approved the Commission's request for additional meetings for its thirty-seventh to fifty-third sessions, decided, without a vote:

(a) To recommend to the Economic and Social Council that it authorize, if possible, within existing financial resources, 40 fully serviced additional meetings, including summary records, in accordance with rules 29 and 31 of the rules of procedure of the functional commissions of the Economic and Social Council, for the Commission's fifty-fourth session;

(b) To request the Chairman of the Commission at its fifty-fourth session to make every effort to organize the work of the session within the times normally allotted, so that the additional meetings that the Economic and Social Council might authorize would be utilized only if such meetings proved to be absolutely necessary.

1997/120. Organization of the work of the fifty-fourth session (reporting obligation)

At its 67th meeting, on 16 April 1997, the Commission decided, without a vote, that, unless otherwise indicated in the resolutions adopted at the fifty-third session, all special rapporteurs, special representatives, independent experts and working groups entrusted with continuing thematic or

country-oriented mandates established by the Commission were expected to report to the fifty-fourth session, even if the relevant resolutions did not make explicit reference to that reporting obligation.

1997/121. Question of human rights in Cyprus

At its 67th meeting, on 16 April 1997, the Commission decided, without a vote, to retain on its agenda item 10 (a), entitled "Question of human rights in Cyprus", and to give it due priority at its fifty-fourth session, it being understood that action required by previous resolutions of the Commission on the subject would continue to remain operative, including the request to the Secretary-General to provide a report to the Commission regarding their implementation.

1997/122. Human rights and the follow-up to the guidelines for the regulation of computerized personal data files

At its 67th meeting, on 16 April 1997, the Commission on Human Rights, referring to the guidelines for the regulation of computerized personal data files (E/CN.4/1990/72) adopted by the General Assembly in its resolution 45/95 of 14 December 1990, and taking note of the report of the Secretary-General submitted pursuant to Commission decision 1995/114 of 8 March 1995 (E/CN.4/1997/67), decided, without a vote:

(a) To request States and intergovernmental, regional and non-governmental organizations to cooperate fully with the Secretary-General by providing him with any relevant information on the application of the guidelines;

(b) To request the Secretary-General to continue to ensure the implementation of the guidelines in the United Nations system;

(c) To request the Secretary-General to report to it at its fifty-fifth session:

(i) On the application of the guidelines within the United Nations system;

(ii) On information collected from States and intergovernmental, regional and non-governmental organizations concerning the follow-up to the guidelines at the national and regional levels.